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ELECTION COMMISSION, INDIA

NOTIFICATION

New Delhi, the 23rd May 1957

S.R.O. 1740.—In pursuance of the provisions of sub-section (1) of section 86 of the Representation of the People Act, 1951, the Election Commission hereby publishes a copy of the Election Petition No. 230 of 1957, presented to the Commission on the 24th April, 1957 under section 81 of the said Act, by Shri Durga Prasad son of Shri Murli Dhar, C/o, 'Daily Navajyoti', Kaiserganj, Ajmer, calling in question the election to the House of the People from the Ajmer Parliamentary constituency of that House of Shri Mukat Beharilal son of Shri Vinodilal, Hathi Bhata, Ajmer.

Presented to me by Shri Durga Prasad whose signature has been obtained in the margin and attested as having been signed before me this the twentyfourth day of April One Thousand Nine Hundred and Fifty Seven.

(Sd.) DIN DAYAL,

Under Secy.,

Election Commission, India.

(Sd.) DURGA PRASAD CHAUDHRY,

Attested.

(Sd.) DIN DAYAL,

Under Secy.

IN THE COURT OF THE ELECTION COMMISSIONER, DELHI

ELECTION PETITION NO. 230 OF 1957

Shri Durga Prasad son of Shri Murli Dhar Kaisergunj, Ajmer—*Petitioner.*

Versus

1. Shri Mukat Beharilal son of Shri Vinodilal, Hathi Bhata, Ajmer.
2. Shri B. N. Bhargava, Vakil, Hathi Bhata, Ajmer—*Respondents.*

Election Petition Under Section 81 of the Representation of People Act, 1951 (as amended upto date).—

The petitioner begs to submit as under:—

1. That the petitioner is a voter of Ajmer Parliamentary Constituency, his electorate number is 2511 in Ward No 32 Ajmer West. He was a candidate for the seat, but has withdrawn afterwards.
2. That the respondent No. 1 is the returned candidate to the House of People (Lok Sabha) from Ajmer Parliamentary Constituency in the General Election held on the month of February-March, 1957.
3. That the respondent No. 2 was his Election Agent of Respondent No. 1 during the election of respondent No. 1 to the House of People.
4. That the respondent No. 1 contested the election on Congress ticket, and he has been declared elected by the Returning Officer, Ajmer on 12th March, 1957 and the result has been published in the Gazette of India, Part II—Section III Extraordinary dated 14th March, 1957.
5. That the petitioner contests the election of the respondent No. 1 to the House of People on the grounds here-in-after noted.
6. That before the States Reorganisation Act 37 of 1956, came into force, Ajmer was a separate C State.
7. That from the appointed day i.e., 1st November, 1956 under the States Reorganisation Act, the former State of Ajmer was merged with the State of Rajasthan.
8. That under Section 47(2) of the Representation of People Act, an order of the Delimitation of Parliamentary and Assembly Constituencies, was to be prepared by the Election Commission after determining all matters referred in Section 44 of the Act. The said order of Delimitation of Parliamentary and Assembly Constituencies has to be passed by both the houses of the Parliament. The said Delimitation of Constituencies, after coming into force of the States Reorganisation Act, having not taken place as required by law, the setting up of Ajmer Parliamentary Constituency, and the election thereof is wholly void.
9. That Rule 5 proviso (a) of the People Conduct of Elections and Election Petitions Rules 1958, is *ultra vires* of the power to make rules conferred on the Central Government in consultation with the Commission. Under Representation of the People Act, 1951, (amended upto date) and as such the said Rule 5 proviso (a) is illegal and void.
10. That the reservation of Election Symbols to certain parties is illegal and void under the Representation of People Act.
11. That the permanent reservation of bullocks with yoke on, to the Congress party and also before the symbols are selected by the Election Commission, is inequitable and unjust, and gives a very unfair advantage to the Congress candidates and in the present case to respondent No. 1 and is repugnant to article 14 of the Constitution of India.
12. That the reservation of symbol of two bullock with yoke on to the Congress party and in this case respondent No. 1 has given unfair advantage to the respondent No. 1 over others and as such the election so held is not fair and is void.
13. That under section 16 of the Representation of the People Act, the power to make rules is vested in the Central Government after consulting the Election Commission, the said power cannot be delegated by the Central Government. The provisions in rule 5 proviso (a) of the Conduct of Election and Election petitions, conferring the power on Election Commission to frame rules to restrict the selection of symbols, is nothing but a redelegation of powers by the Central Government and as such the said proviso is illegal and void.
14. That the further delegation of powers by the Election Commission to the Returning officer, to allow the choosing of symbols 1 to 4 by a candidate, *vide* Notification S.R.O. 2649 dated 12th November, 1956, is wholly void.

15. That the holding of elections with such restriction is inequitable, unjust and wholly void.

16. That the permanent reservation of the symbols to the congress has resulted in unfair advantage to the congress respondent No. 1 in canvassing, publication, literature etc. which has materially affected the result of election.

17. That Seth Sobhag Mal Lodha of Civil Lines and Nayabazar Ajmer was one of the candidate for Parliamentary election from this constituency, his nomination was accepted, and has started the canvassing in right earnest.

18. That the respondent No. 1 made several approaches personally as well as through influential persons to induce Seth Sobhag Mal Lodha to withdraw from the contest but found that his efforts were not successful.

19. That Shri Panch Hazari, a representative of the All India Congress Committee at the respondent No. 1 instance of Respondent No. 1 and on behalf of Shri U. N. Dhebar then approached Shri Seth Sobhag Mal Lodha and on behalf of Shri U. N. Dhebar offered the nomination on behalf of the Congress for the seat of Rajya Sabha from Rajasthan to Seth Sobhag Mal Lodha. That he further assured that Shri U. N. Dhebar would confirm the said offer personally. That said Seth Sobhag Mal on the said inducement withdraw from the contest from Ajmer Parliamentary Constituency.

20. That Shri U. N. Dhebar in persuance of the promise given by his representative Shri Panch Hazari went to the residence of Seth Sobhag Mal Lodha, and confirmed the offer of nomination for Rajya Sabha seat on behalf of the Congress. That Shri U. N. Dhebar also dined at the residence of Seth Sobhag Mal Lodha.

21. That Seth Sobhag Mal Lodha was so much influenced by offer of the nomination for Rajya Sabha seat made to him, by the representative of Shri U. N. Dhebar, and personally confirmed by Shri U. N. Dhebar, that Seth Sohag Mal gave a sum of Rs. 10,000 to Shri U. N. Dhebar, by cheque drawn from the account of Newar Textile Mills, Bhilwara.

22. That the aforesaid corrupt practice of inducing Seth Sobhag Mal Lodha, was done at the instance of the respondent No. 1 by Shri Panch Hazari and Shri U. N. Dhebar.

23. That the respondents are guilty of corrupt practices under Section 123(6) as under:—

- (i) That the respondent Nos. 1 and 2 are guilty of not maintaining the accounts as laid down under Section 77 of the Representation of People Act.
- (ii) That the accounts from day to day from the date of publication of the Notification calling the election and the date of declaration of the result thereof has not been maintained.
- (iii) That the said accounts are false, inaccurate and wholly unreliable and prepared with intent to limit the expenses to the maximum allowed under the Representation of People Act, and conduct of Elections and Election Petition Rules.
- (iv) That the return of Election expenses filed are incomplete disregard of the provisions of Rule 131 of the Conduct of Election and Election Petition Rules 1956.
- (v) That the majority of the receipts and vouchers filed along with the accounts were never obtained either when the expenses were incurred, or during the period laid down under Section 77 of the Act, but were subsequently obtained and manipulated, and as such they are illegal and amounts to corrupt practice of non-maintaining the accounts.
- (vi) That the accounts submitted are false and have been made up with a view to avoid disqualification and to conceal the expenses within the maximum allowed under the law.

- (vii) That the expenses of postage have not at all been shown in the accounts submitted.
- (viii) That the respondent Nos. 1 and 2 have maintained free kitchens at several places during the period of election, and there were near about 200 person dining daily in these kitchens, and the expenses of that were not less than Rs. 4000 for all the kitchens and the same have not been shown correctly.
- (ix) That the respondent No. 1 who was also the President of the Ajmer Provincial Congress Committee received a grant of Rs. 30,000 from the All India Congress Committee for spending on the election, and the same was spent by the respondent No. 1 towards his election and he has not shown, the expenses of the said amount in the account submitted by him.
- (x) That Shri Mukand Dass Rathi of Beawar, a mill owner gave a sum of Rs. 40,000 to the respondent No. 1 for being spent in the election, and the same have been spent by respondent No. 1, but the expenses of the same have not been shown by him.
- (xi) That free liquor was got distributed by respondents Nos. 1 and 2 at several places and no expenses of the same have been shown in the accounts filed.
- (xii) That public conveyances were engaged by the respondent Nos. 1 and 2 for days together during election. The expenses amounted to Rs. 10,000 which have not been shown in the accounts.
- (xiii) That the expenses of the travelling, fooding of the Polling agents and workers about 400 have not been shown at all.

24. That the respondent No. 1 is guilty of corrupt practices under section 123(4) of the Representation of People Act as under:—

- (i) That the respondent No. 1 and his agents used national flag at the congress meetings in Kekri circle villages and asked voters to vote for congress in the name of the said flag.
- (ii) That so also in several meetings at different places the support for the congress was canvassed on the ground that the flag adopted by the congress is the same as national flag, and a vote to the congress is a vote to national flag.

25. That the respondent No. 1 is guilty of corrupt practices under section 123(5) of the Representation of People Act in using conveyances to bring voters to the polling station from hundreds of villages and also from Ajmer, Beawar, Kekri, Kishargarh and Nasirabad from their houses to the Polling Station.

26. That the respondent No. 1 used several vehicles belonging to Messrs. Narain Dass Lohia, Mukand Dass Rathi, Automobile Transport (Raj. Ajmer) Verma Motors Beawar and others and also of Shrimati Gulab Devi, Beawar, during the period of election and on the polling days, and these vehicles were also used in carrying voters at the polling station to vote for the respondent No. 1 and which amounted to corrupt practice under Section 123(5) of the Act.

27. That the respondent No. 1 is also guilty of corrupt practice under Section 123(1) of the Representation of People Act, in obtaining assistance from the Panchayat officer, as well as Assistant Agricultural Officer, in canvassing votes for him, the particular of which are as under:—

- (i) That the respondent No. 1 toured in the company of the Panchayat officer in several villages and got amounts ranging from 100 to Rs. 3000 paid to different Panchayats and asked the officials of the Panchayats to vote for the respondent No. 1.
- (ii) That promises were also made that in case the respondent No. 1 is successful further amounts would be paid to Panchayats and in fact amounts to extent of 3 lacs were distributed to the Panchayats subsequently.

- (iii) That Shri R. K. Singh Paroda also toured the villages in the company of the respondent No. . That during the said tour Shri R. K. Singh Paroda distributed Taccavi loans to the villagers on the assurance that they would vote for the congress.
- (iv) That Shri R. K. Singh Paroda even on the polling day at Pushkar brought voters to the Polling Station in the Government conveyance to vote for Congress.
- (v) That Lady inspectors of School with their subordinate teachers toured the constituency and coerced and influenced the teachers and parents of the pupils to vote for respondent No. 1.

28. That the respondent No. 1 also got liquor freely distributed at different places in order to induce voters to vote for the respondent No. 1.

29. That the respondent No. 1 is also disqualified to stand for election as he was holding office of profit under Article 102(1)(a) of the Constitution of India.

- (i) That the respondent was engaged by the former State of Ajmer which was a Part 'C' State in several cases before court, detailed as under:—
 - (a) He was engaged as a lawyer on behalf of the Ajmer State in Sogani Murder case before the Supreme Court of India.
 - (b) That he was engaged as a lawyer on behalf of the former Ajmer State in the Special Leave to appeal filed with regard to the Election of Speaker before the Supreme Court of India.
 - (c) That he was engaged on behalf of the former State of Ajmer in case of Municipal Committee, Beawar, before the Supreme Court of India.
 - (d) That there were also several other cases in which the respondent No. 1 was engaged on behalf of the State of Ajmer.
- (ii) That the former Ajmer State being a Part 'C' State, was under the Central Government, and the engagement of the respondent as lawyer, amounted to holding an office of profit under the Central Government.
- (iii) That the respondent continued to hold the office of profit under the Central Government at the time when the nomination was filed.

30. That the respondent No. 1 is Constitutionally disqualified to represent the constituency as he is blind and is incapable to represent the interest of this constituency. The Electors have an indefeasable right to send a person who is physically and constitutionally capable to represent the interest of the constituency. The sending of such a representative amounts virtually to deprive the constituents of their right of proper representation, and as such his election is void.

31. That the respondent No. 1 through Hindu and Muslim Religious Leaders made a systematic appeal to the Hindu and Muslim voters in the name of Hindu religious Gods, namely, "Ram, Krishna, Nanak, Mahabir and others", and Muslim voters in the name of Alla, Mohammad and Khwaja Moinuddin Chisty in soliciting votes for him.

32. That the Muslim voters were also coerced to vote for the Congress under the threat that if they do not vote for the Congress they will have to leave for Pakistan. This was specially done in the villages having sufficient Muslim population.

33. That there being no delimitation of the Constituencies under the States Reorganisation Act the incurring of expenses exceeding Rs. 11,000 by respondent No. 1 vitiates his election.

34. That the security amount of Rs. 1,000 has been deposited and the receipt is filed herewith.

It is therefore prayed that the Election of the Respondent No. 1 be set aside, and he may be further disqualified along with respondent No. 2 to stand for election for a period of six years, and it may also be declared that the respondents have committed corrupt practices.

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The cost of the petition may also be allowed to the petitioner against the respondents.

(Sd.) DURGA PRASAD CHAUDHRY,

Dated 24th April, 1957.

Petitioner.

I, Durga Prasad Chaudhry, son of Shri Murlidhar, do hereby solemnly state that paras 1 to 5, 17 to 23 (i) to (xii), 24 to 27 (i) to (v), 28, 29 (i) to (iii), 30 to 32 and 34 are true to the best of my knowledge and paras 6 to 16 and 33 are correct as legally advised and last is prayer.

Dated 24th April, 1957.

DURGA PRASAD CHAUDHRY,

Petitioner.

[No. 82/230/57.]

By Order,

DIN DAYAL, Under Secy.